

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 30 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2007 (RETROACTIVE)]:
- 6 **Chapter 31. Education Contribution Tax Credit**
- 7 **Sec. 1. (a) As used in this chapter, "contribution" means a**
- 8 **donation of cash, personal property, or services, the value of which**
- 9 **is the net cost of the donation to the donor or the pro rata hourly**
- 10 **wage, including benefits, of the individual performing the services.**
- 11 **(b) The term does not include activities that are a part of a**
- 12 **taxpayer's normal course of business.**
- 13 **Sec. 2. As used in this chapter, "educational improvement**
- 14 **organization" means a nonprofit entity that:**
- 15 **(1) is exempt from federal taxation under section 501(c)(3) of**
- 16 **the Internal Revenue Code; and**
- 17 **(2) contributes at least eighty percent (80%) of its annual**
- 18 **receipts as grants to a public school for innovative educational**
- 19 **programs.**
- 20 **Sec. 3. As used in this chapter, "eligible student" means a school**
- 21 **age student who is enrolled in a school and is a member of a**
- 22 **household with an annual household income of not more than fifty**
- 23 **thousand dollars (\$50,000). For purposes of determining whether**
- 24 **household income exceeds fifty thousand dollars (\$50,000), ten**

thousand dollars (\$10,000) shall be deducted for each dependent member of the household.

Sec. 4. As used in this chapter, "household" means an individual living alone or with a spouse, a parent, the parent's or individual's unemancipated minor children, other unemancipated minor children who are related by blood or marriage, or other adults or unemancipated minor children who are dependent on the individual.

Sec. 5. As used in this chapter, "household income" means all money or property regardless of its nature and regardless of the source from which it was derived. However, the term does not include the following:

- (1) Periodic payments for sickness and disability other than regular wages received during a period of sickness or disability.
- (2) Disability, retirement, or other payments arising under worker's compensation acts, occupational disease acts, and similar legislation by any government.
- (3) Payments commonly known as public assistance or unemployment compensation payments by a governmental agency.
- (4) Payments to reimburse actual expenses.
- (5) Payments made by employers or labor unions for programs covering hospitalization, sickness, disability, and supplemental unemployment benefits.

Sec. 6. As used in this chapter, "innovative educational program" means an advanced academic or similar program that:

- (1) is not part of the regular academic program of a public school; and
- (2) enhances the curriculum or academic program of the public school.

Sec. 7. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 8. As used in this chapter, "scholarship organization" means a nonprofit entity that:

- (1) is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (2) contributes at least eighty percent (80%) of its annual receipts to a scholarship program.

Sec. 9. As used in this chapter, "scholarship program" means a program that:

- (1) provides tuition to eligible students to attend a school located in Indiana;

(2) includes an application and review process to make awards to eligible students; and

(3) provides for the award of scholarships to eligible students without limiting availability to only students of one (1) school.

Sec. 10. As used in this chapter, "school" means the following:

(1) A nonpublic school (as defined in IC 20-18-2-12) that:

(A) complies with all health and safety laws that apply to nonpublic schools;

(B) holds a valid occupancy permit if required; and

(C) certifies that it will not discriminate in admissions on the basis of race, color, or national origin.

(2) A public school (as defined in IC 20-18-2-15).

Sec. 11. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 12. As used in this chapter, "taxpayer" means an individual or entity operating a trade or business that has any state tax liability.

Sec. 13. (a) The state board of education shall adopt rules under IC 4-22-2 to determine the eligibility of an innovative educational program for purposes of this chapter.

(b) To qualify as an educational improvement organization under this chapter, an organization must submit an application to the department of education that describes the organization's proposed innovative educational program. The application must be in a form prescribed by the department of education. The department of education shall review the application and then approve or disapprove the organization as a qualified educational improvement organization under this chapter.

(c) If an organization qualifies as a scholarship organization or an educational improvement organization under this chapter, the department of education shall notify:

(1) the organization; and

(2) the department of state revenue;

of the organization's qualification not later than sixty (60) days after the organization has submitted all of the information required under this chapter. The department of education shall provide an appropriate certificate to each organization that the department determines to be qualified under this chapter.

Sec. 14. In order for contributions to a scholarship organization or an educational improvement organization to qualify for the credit provided by this chapter, the scholarship organization or

educational improvement organization must first submit to the department:

- (1) information enabling the department to confirm that the organization is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and
- (2) a copy of the certificate issued by the department of education under section 11 of this chapter indicating that the organization qualifies as a scholarship organization or educational improvement organization under this chapter.

Sec. 15. The department shall annually publish in the Indiana Register a list of scholarship organizations and educational improvement organizations that have qualified under this chapter.

Sec. 16. (a) A taxpayer providing proof of a contribution to a qualified scholarship organization or a qualified educational improvement organization for an innovative education program or scholarship program is entitled to a tax credit under this chapter in the taxable year in which the contribution is made. The amount of the credit for the taxable year is the least of:

- (1) seventy-five percent (75%) of the total amount contributed during the taxable year by the taxpayer;
- (2) fifteen thousand dollars (\$15,000); or
- (3) the taxpayer's state tax liability for the taxable year.

The taxpayer must provide a completed application for the credit to the department at the time the taxpayer submits proof of the contribution.

(b) A tax credit not used in the taxable year the contribution was made may not be carried forward or carried back and is not refundable or transferable.

Sec. 17. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 18. To receive the credit provided by this chapter, a taxpayer must do the following:

- (1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.
- (2) Provide to the department a copy of the donee's certificate issued by the department of education under section 13 of this chapter showing that the donee is a qualified scholarship organization or a qualified educational improvement organization.
- (3) Submit to the department all information that the

1           department determines is necessary for the calculation of the  
2           credit provided by this chapter.

3       The department may require a pass through entity to provide  
4       reports that the department determines necessary for the  
5       department to calculate the percentage of the credit provided by  
6       this chapter to which a shareholder, partner, or member of the  
7       pass through entity is entitled.

8           Sec. 19. (a) The amount of tax credits allowed under this chapter  
9       may not exceed ten million dollars (\$10,000,000) in a state fiscal  
10      year. The amount used to provide tax credits for contributions  
11      from taxpayers to:

12           (1) scholarship organizations; or

13           (2) educational improvement organizations;

14      may not exceed seven million five hundred thousand dollars  
15      (\$7,500,000) of the total amount.

16           (b) The department shall record the time of filing of each  
17      application for allowance of a credit under this chapter and shall  
18      approve the applications, if the applicants otherwise qualify for a  
19      tax credit under this chapter, in the chronological order in which  
20      the applications are filed in the state fiscal year.

21           (c) Whenever the total credits approved under this section equal  
22      the maximum amount allowable in any state fiscal year, an  
23      application thereafter filed for that same fiscal year may not be  
24      approved. However, if any applicant for whom a credit has been  
25      approved fails to file the proof required under this chapter, an  
26      amount equal to the credit previously allowed or set aside for the  
27      applicant may be allowed to any subsequent applicant in the year.  
28      In addition, the department may, if the applicant requests, approve  
29      a credit application, in whole or in part, with respect to the next  
30      succeeding state fiscal year.

31           Sec. 20. A scholarship received by an eligible student may not be  
32      considered to be taxable income for the purposes of IC 6-3.

33           Sec. 21. Before July 1 of each year, the department shall provide  
34      a list of all scholarship organizations and educational improvement  
35      organizations receiving contributions from taxpayers granted a tax  
36      credit under this chapter to the general assembly in an electronic  
37      format under IC 5-14-6."

- 1       Page 2, after line 26, begin a new paragraph and insert:  
2       "SECTION 3. [EFFECTIVE JANUARY 1, 2007  
3       (RETROACTIVE)] **IC 6-3.1-31, as added by this act, applies only to**  
4       **taxable years beginning after December 31, 2006.**  
5       SECTION 4. **An emergency is declared for this act.**  
6       Renumber all SECTIONS consecutively.  
      (Reference is to ESB 30 as printed March 1, 2007.)

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Representative Behning